

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

ERVAN C. JOHNSON,

Civil No. 03-220-HU

Plaintiff,
v.

ORDER

JO ANNE B. BARNHART,
Commissioner of
Social Security,

Defendant.

MARSH, Judge.

On February 3, 2005, Magistrate Judge Dennis J. Hubel filed his Findings and Recommendation, in which he found no error in the Administrative Law Judge's findings that Plaintiff was not disabled and, therefore, was not entitled to a period of disability and payment of disability insurance benefits under 42 U.S.C. §§405(g) and 1383(c). Accordingly, Judge Hubel recommended that the Commissioner's decision be affirmed and that this action be dismissed.

The matter is now before me pursuant to 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b). When either party objects to any portion of the Magistrate's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate's report. See 28 U.S.C. § 636(b)(1)(c); McDonnell Douglas Corp. v. Commodore Business Machines, Inc., 656 F.2d 1309, 1313 (9th Cir. 1981), cert. denied, 455 U.S. 920 (1982).

Plaintiff has filed timely objections. I have, therefore, given the file of this case a *de novo* review.

I find no error. Accordingly, I ADOPT the Findings and Recommendation (#26) of Magistrate Judge Dennis J. Hubel that Plaintiff was not disabled and, therefore, was not entitled to a period of disability and payment of disability insurance benefits under 42 U.S.C. §§405(g) and 1383(c). The decision of the Commissioner is AFFIRMED.

IT IS SO ORDERED.

DATED this 8 day of June, 2005.

/s/ Malcolm F. Marsh
Malcolm F. Marsh
United States District Judge